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Hearing Date: December 14, 2017

Hearing Time: 10:00 A.M.

Objection Deadline: December 7, 2017

Attorneys for Defendants Magnify Inc., Premero Investments Ltd., Strand International Investments Ltd., The Yeshaya Horowitz Association, Yair Green, and Express Enterprises Inc.

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

MAGNIFY INC., PREMERO INVESTMENTS LTD.,
STRAND INTERNATIONAL INVESTMENTS LTD.,
THE YESHAYA HOROWITZ ASSOCIATION, YAIR
GREEN, and EXPRESS ENTERPRISES INC.,

Defendants.

Adv. Pro. No. 10-05279 (SMB)

**DEFENDANTS' NOTICE OF MOTION TO DISMISS
PLAINTIFF'S SECOND AMENDED COMPLAINT**

PLEASE TAKE NOTICE that upon the accompanying (i) Affidavit of Yair Green sworn to on the 26th day of October, 2017, in support of Defendants' motion to dismiss the Second Amended Complaint and the Exhibits annexed thereto, and (ii) Defendants' Memorandum of Law dated October 30, 2017, in support of Defendants' motion to dismiss the Second Amended Complaint, and upon all prior proceedings heretofore had herein and in the SIPA Liquidation No. 08-01789(SMB) (Substantively Consolidated), Defendants Magnify Inc. ("Magnify"), Premero Investments Ltd. ("Premero"), Strand International Investments Ltd. ("Strand"), The Yeshaya Horowitz Association ("YHA"), Yair Green ("Green"), and Express Enterprises Inc. ("Express"), by and through their undersigned counsel, Davidoff Hatcher & Citron, LLP, will move before the Honorable Stuart M. Bernstein, United States Bankruptcy Judge, at the United States Bankruptcy Court, Southern District of New York, Alexander Hamilton Customs House, Courtroom 723, One Bowling Green, New York, NY 10004-1408 on **December 14, 2017 at 10:00 A.M.** (the "Hearing Date") for entry of an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure, made applicable hereto and incorporated into the above-captioned adversary proceeding by Rule 7012 of the Federal Rules of Bankruptcy Procedure, dismissing with prejudice the following Counts in the Second Amended Complaint as asserted against the Defendants (the "Motion"):

- A. Count One as against Defendants Premero and Green (but not as against Defendants Magnify, Strand, and YHA);
- B. Count Two as against all Defendants named therein (Magnify, Strand, Premero, YHA, and Green);
- C. Count Three as against all Defendants named therein (Magnify, Strand, Premero, YHA, and Green);
- D. Count Four as against all Defendants named therein (Magnify, Strand, Premero, YHA, and Green);
- E. Count Five as against all Defendants named therein (Magnify, Strand, Premero, YHA, and Green);

- F. Count Six as against all Defendants named therein (Magnify, Strand, Premero, YHA, and Green);
- G. Count Seven as against all Defendants named therein (Magnify, Strand, Premero, YHA, Green, and Express);
- H. Count Eight as against the only Defendant named therein (YHA);
- I. Count Nine as against all Defendants named therein (Magnify, Premero, Strand, and YHA).

PLEASE TAKE FURTHER NOTICE that papers in opposition, responses or objections to the Motion, if any, must: (i) be in writing, conform to the applicable rules of this Court, and be filed electronically with the Clerk of the United States Bankruptcy Court, One Bowling Green, New York, NY 10004, in accordance with General Order 242, by no later than **December 7, 2017 at 5:00 P.M.** (the “Objection Deadline”), or at such subsequent date and time as may hereafter be ordered by the Court, (with a courtesy copy to the Chambers of the Honorable Stuart M. Bernstein), and (ii) be served upon Defendants’ attorneys, Davidoff Hutcher & Citron LLP, 605 Third Avenue, 34th Floor, New York, New York 10158, Attn.: Michael Wexelbaum, Larry Hutcher and Michael Katz, so as to be received no later than the Objection Deadline, or at such subsequent date and time as may hereafter be ordered by the Court. Any papers in opposition, response or objection must specifically state the interest that the responding or objecting party has in this proceeding and the specific basis of any opposition, response or objection to the Motion.

PLEASE TAKE FURTHER NOTICE that hearing on the Motion will be held before the Honorable Stuart M. Bernstein on the Hearing Date, or at such subsequent date and time as may hereafter be scheduled by the Court, at the United States Bankruptcy Court, Southern District of New York, Alexander Hamilton Customs House, Courtroom 723, One Bowling Green, New York, New York 10004-1408.

Dated: New York, New York
October 30, 2017

DAVIDOFF HUTCHER & CITRON LLP

By: 

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